

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
IVAN COLLADO,

Petitioner,

- against -

DENNIS BRESLIN,

Respondent.
----- X

**MEMORANDUM
DECISION AND ORDER**

07 Civ. 1038 (BMC)(RER)

COGAN, District Judge.

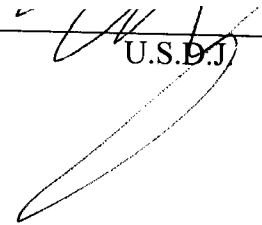
This case presents a habeas corpus proceeding brought under 28 U.S.C. §2254 in which petitioner claims that after the state trial judge imposed sentence upon him, the sentence was administratively augmented to add a five year term of supervised release in violation of his due process rights as explained in Earley v. Murray, 451 F.3d 71 (2d Cir. 2006). Subsequent to the filing of the petition, and in response to it, the state court resentenced petitioner and eliminated the supervised release term. Accordingly, by Order to Show Cause dated October 1, 2008, Magistrate Judge Reyes directed petitioner to demonstrate on or before October 22, 2008 why the case should not be dismissed as moot. Petitioner has not responded.

Under the doctrine of mootness, “an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed,” Connecticut Office of Prot. and Advocacy For Persons With Disabilities v. Hartford Bd. of Educ., 464 F.3d 229, 237 (2d Cir.2006) (quoting Steffel v. Thompson, 415 U.S. 452, 459 n. 10 (1974)). Given that the relief petitioner initially sought has been provided, this petition no longer presents the Court with a justiciable controversy.

Petitioner's request for a writ of habeas corpus is accordingly DENIED as moot. The Clerk is directed to enter judgment. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purposes of appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). The Clerk of the Court is directed to enter judgment and close this case.

SO ORDERED.

/Signed by Judge Brian M. Cogan/



U.S.D.J.

Dated: Brooklyn, New York
November 7, 2008